



# **NORTHAMPTON LICENSE COMMISSION JANUARY 6, 2010 Minutes**

*Commission Chairman Brad Shimel, Commissioner William Rosen,  
Commissioner Stephanie Levin*

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**Commissioners Rosen and Levin were present. Commissioner Shimel was absent.**

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**Commissioner Stephanie Levin opened the meeting at 4:00 p.m.**

**1. APPLICATION FOR SHORT TERM ALL ALCOHOLIC LICENSE**

Greater Northampton Chamber of Commerce

January 6, 2010 – 5:00-7:00 p.m. – Networking event for member at Universal Health Fitness, 33 Hawley Street

March 3, 2010 – 5:00-7:00 p.m. – Networking event for members at Calvin Coolidge Nursing Home, 548 Elm Street

October 6, 2010 – 5:00-7:00 p.m. – Networking event for members at Chamber office, 99 Pleasant Street

December 1, 2010 – 5:00-7:00 p.m. – Networking event for members at Silverscape Designs, 1 King Street

Suzanne Beck, Executive Director, Greater Northampton Chamber of Commerce was present for the application. These are networking events for members of the Greater Northampton Chamber of Commerce, held at locations that do not have liquor licenses on premises. Ms. Beck will provide servers' certifications and insurance binder to the Clerk.

**Commissioner Rosen moved to approve the applications; Commissioner Levin seconded. The vote passed unanimously (2-0).**

Ms. Beck handed the Clerk a check for \$240.00. When the Clerk questioned this amount, Ms. Beck stated that the applications should have been for Wine and Malt, not All Alcoholic. The applications were corrected.

**Commissioner Rosen withdrew the approval of All Alcoholic licenses; Commissioner Levin seconded. The vote passed unanimously (2-0).**

**Commissioner Rosen moved approval of the Short Term Wine and Malt licenses; Commissioner Levin seconded. The vote passed unanimously (2-0).**

**2. APPLICATION FOR COMMON VICTUALLER LICENSE, ANNUAL WINE AND MALT RESTAURANT LIQUOR LICENSE AND WEEKDAY ENTERTAINMENT LICENSE**

HOUBA CORP d/b/a GULU-GULU CAFÉ

Owner: Steven Feldmann

Premise Address: 33 Main Street, Northampton

Proposed Opening Date: January 2010

Description of proposed entertainment: Live Music, MP3, CDs, Video via projector, Spoken Word

sfeldmann@gulu-gulu.com

***POSTPONED from December 2, 2009***

Steven Feldmann was present for the application. This application was postponed from the December 2, 2009 meeting of the Northampton License Commission, as all abutters had not been notified. All abutter cards have been returned. Mr. Feldmann hopes to open Gulu-Gulu Café by April 1, 2010 in the location formerly occupied by Dynamite Records.

Commissioners Levin and Rosen advised Mr. Feldmann that, in order to apply and receive a liquor license for the premises, he must have a significant service of food. The liquor license is effective until 1:00 a.m.

Mr. Feldmann was questioned by Commissioners Rosen and Levin regarding the proposed weekday entertainment. It was explained that a Northampton Weekday Entertainment license is Monday-Saturday only. The Mayor's office handles requests for Sunday Entertainment licenses, typically, but at this time is not accepting any requests.

Mr. Feldmann stated he hopes to have a movie on Tuesdays, Open Mike on Wednesdays, and live entertainment on Thursdays, Fridays and Saturdays. The stage is set to the back of the location, and there are only offices above the location.

Mr. Feldmann has a Gulu-Gulu Café in Salem, MA currently, and had a Gulu-Gulu Café in Lynn, MA for three years with closing recently of the Lynn café.

This liquor license application for an Annual Wine and Malt Restaurant license is available within the Northampton quota, as confirmed by the ABCC on November 13, 2009.

**Commissioner Rosen moved approval of the 16C Finding; Commissioner Levin seconded. The vote passed unanimously (2-0).**

**Commissioner Levin moved approval of the Common Victualler license; Commissioner Rosen seconded. The vote passed unanimously (2-0).**

**Commissioner Levin moved approval of the Annual Wine and Malt Restaurant license, contingent with a 1:00 a.m. closing and upon approval by the ABCC; Commissioner Rosen seconded. The vote passed unanimously (2-0).**

Commissioners reminded Mr. Feldmann that service of food must accompany service of liquor. A beer bar is not allowed in the City of Northampton. Mr. Feldmann stated that he understood.

**Commissioner Rosen moved approval of the Weekday Entertainment license, with the Northampton License Commission reserving the right to review any reports of noise complaints; Commissioner Levin seconded. The vote passed unanimously (2-0).**

### **3. APPLICATION FOR CHANGE OF MANAGER**

Bowl New England, Inc. d/b/a Spare Time – Northampton  
525 Pleasant Street, Northampton, MA  
Proposed Manager: William R. Green

No one was present for the application. Commissioners requested the Clerk put this application on the February 3, 2010 meeting agenda and request Mr. Green appear at the meeting. Commissioners questioned the application in which Mr. Green states “no prior experience in the liquor industry”. The Clerk will write to the applicant, and send a copy to the Bowl New England headquarters, with additional information of upcoming local ServeSafe Certification classes.

### **4. APPROVAL OF MINUTES OF DECEMBER 2, 2009**

Commissioners and the Clerk were unsure if Commissioners were sent via email the minutes from December 2, 2009 meeting. The Clerk will put the December 2, 2009 minutes on the February 3, 2010 agenda.

### **5. NEW BUSINESS –**

Dan Kaplan was present for a new application for Short Term Wine and Malt license for Biodynamic Farmland Conservation Trust, Inc. for a Fundraising Event for Amherst and Northampton Survival Centers on Saturday, January 16, 2010 to be held at the Northampton Center for the Arts, 17 New South Street. Server certification was provided, and insurance binder will be provided to the Clerk prior to the event.

**Commissioner Levin moved approval of the application; Commissioner Rosen seconded. The vote passed unanimously (2-0).**

The Clerk stated that she was called by the St. Patrick's Association to apply for a Short Term Wine and Malt license; however, no one was present and no application had been received to date.

The Clerk explained that the New Annual Wine and Malt Restaurant license application approved by the Northampton License Commission on December 2, 2009 was returned with "Returned No Action" by the ABCC when it was discovered that there is still technically a Seasonal Wine and Malt Restaurant license issued to Mr. Robert Lowney of the former Bistro 186 at the same premises of 186 Main Street. The Clerk has attempted to obtain a Surrender of License from Mr. Lowney, who has been agreeable to this by telephone. A letter sent to Mr. Lowney in December has gone unanswered to date.

Until Mr. Lowney surrenders the Seasonal Wine and Malt Restaurant license, the application for Eclipse for a New Annual Wine and Malt Restaurant license cannot be resubmitted to the ABCC. The worst-case scenario is that the License Commission may have to wait until April 1, 2010, when Mr. Lowney does not renew his license, to revoke the Seasonal license.

**Commissioner Levin instructed the Clerk to send another letter with a Surrender Affidavit to Mr. Lowney. The Clerk will send this letter as Certified Mail with a self-addressed, stamped envelope.**

The Clerk advised the License Commission of a new procedure in which the State Attorney General's office is sending via email approximately once a month a listing of 24J OUI "Last Drink" information. This listing contains all those stopped by police for OUI and asked, "Where did you have your last drink?" This listing is for the entire state, and the Clerk must highlight the establishments of Northampton, Florence and Leeds. The Clerk would like to present a report either monthly or quarterly for the License Commission's information. To date, the only notice sent is dated December 4, 2009. Commissioner Levin noted that she did not want this to cause the Clerk more work; the Clerk stated that the list is easily readable and does not create more work. The Attorney General's accompanying email (Attached) states:

*"The provision of this information to you does not constitute an accusation of criminal or negligent conduct by any establishment and is not meant to be a substitute for your own license monitoring and enforcement practices. The Attorney General has not conducted an independent review of the information, and notes that because section 24J does not require that the statement concerning the establishment be made under oath, such statement may or may not be reliable. Nevertheless, the Attorney General is making this information available to you for use in your discretion."*

The Clerk noted a recent letter sent to Mulino's Trattoria and Bishop's Lounge regarding a Monday "Dollar Draft Night". The Commission agreed that this notice to cease this activity is correct. (Attached).

The Clerk noted that the Police Department has requested that Violation Hearings be held on February 3, 2010 for The Office and Side Street Café.

**At 4:48 p.m., Commissioner Levin moved to adjourn and was seconded by Commissioner Rosen. The vote passed unanimously (2-0).**

**The next meeting of the Northampton License Commission is February 3, 2010 at 4:00 p.m.**

*Respectfully submitted,  
Mary L. Midura  
Executive Secretary*

**Mary Midura****From:** OUINotice [Ouinotice@state.ma.us]**Sent:** Friday, December 04, 2009 10:01 AM

**To:** Acton; Amesbury; Amy Henessy Neves (LCelozzi@townofmilford.com); Amy K. Summers (asummers@town.lynnfield.ma.us); Andrew Dowd (dwackell@town.northborough.ma.us); Aquinnah; Arlington; Attleboro; Auburn; Ayer; Barre; Bedford; Bellingham; Belmont; Berkley; Berlin; Beverly; Bourne; Boxborough; Braintree; Brockton; Cambridge; Carlene C. Hamlin (labried@southhadleypolice.org); Carlisle; Carole B. Marple (carole.marple@sherbornma.org); Chelmsford; Cheshire; Chester; Clarksburg; Concord; Dalton; Deborah Dami (townclerk@ci.mashpee.ma.us); Doreen A. Cedrone (ssusienka@northbridgemass.org); Douglas; Dover; Dunstable; Easthampton; Fairhaven; Fall River; Fitchburg; Franklin; Gardner; Goshen; Gosnold; Granville; Groveland; Hampden; Harwich; Hatfield; Hawley; Heath; Hingham; Hinsdale; Hopkinton; Karen Doucette; Lancaster; Laura A. Gemme (lgemme@ci.reading.ma.us); Leicester; Lexington; Littleton; Manchester By The Sea; Mattapoisett; Medfield; Medford; Methuen; Middleborough; Millbury; Montague; Monterey; Nahant; Nantucket; Newbury; Newton; Norfolk; North Andover; North Reading; Northfield; Norton; Oak Bluffs; Oakham; Orleans; Pelham; Peru; Petersham; Plainville; Provincetown; Randolph; Raynham; Richmond; Rockport; Rowe; Salem; Sandisfield; Scituate; Sheffield; Shelburne; Shirley; Shrewsbury; Southampton; Templeton; Topsfield; Truro; Washington; Wellfleet; Wendell; Wenham; West Springfield; Westminster; Westwood; Weymouth; Wilbraham; Williamsburg; Windsor; Winthrop; Worcester; Wrentham; Ashburnham; Ashby; Ashfield; Athol; Barnstable; Becket; Bernardston; Blackstone; Brewster; Brookfield; Buckland; Carver; Charlemont; Chatham; Chicopee; Chilmark; Cohasset; Colrain; Danvers; Dartmouth; Deerfield; Donna Salluce; Dracut; Duxbury; East Bridgewater; Eastham; Easton; Egremont; Everett; Falmouth; Freetown; Gill; Grafton; Granby; Great Barrington; Groton; Hadley; Halifax; Hamilton; Harvard; Haverhill; Holbrook; Holden; Holland; Holliston; Hopedale; Hudson; Hull; Jane L. Chew (jcritch@burlmass.org); Janice M. McGrane (mfarrell@georgetownma.gov); Joyce Green (hubbtownclerk@charterinternet.com); Kim D. Hopewell (selectboard@westboylston-ma.gov); Kingston; Lakeville; Lanesborough; Laurie Gibbons (selectmen@ludlow.ma.us); Leominster; Leverett; Linda C. Burdick (bos@taconic.net); Linda Hunt (Selectmen@townofstockbridge.com); Lisa H. Brown (townadmin@floridamass.net); Longmeadow; Lunenburg; Lynn; Lynne F. Grettum (jlebeaux@town.princeton.ma.us); Malden; Marie C. Duby (selectmen@townoflenox.com); Marlborough; Marlene B. Chused (boardofselectmen@townofsharon.org); Mary Courtney Kennedy (kpoirot@williamstown.net); Mary Ellen Lannon (townmanager@winchester.us); Mary Pat Kaszanek (ta@rockland-ma.gov); Maryjane White (mwhite@townofmedway.org); Maureen T. Winseck (licensingcommission@greenfield-ma.gov); Maynard; Melrose; Mendon; Middlefield; Millis; Milton; Monroe; Monson; Montgomery; Nancy Morrison (mcole@wbridgewater.com); Natick; New Ashford; New Braintree; New Marlborough; North Adams; North Andover; North Attleborough; Orange; Otis; Oxford; Pembroke; Pepperell; Phillipston; Pittsfield; Plymouth; Plympton; Quincy; Rehoboth; Revere; Rochester; Royalston; Saugus; Savoy; Seekonk; Shutesbury; Somerville; Southbridge; Southwick; Spencer; Stoneham; Stoughton; Stow; Sturbridge; Sutton; Tewksbury; Tisbury; Tyngsborough; Tyringham; Upton; Uxbridge; Wakefield; Wales; Ware; Wareham; Warren; Warwick; Watertown; Wayland; Wellesley; West Newbury; Westborough; Westfield; Westford; Westhampton; Weston; Westport; Whately; Winchendon; Worthington; Yarmouth; Abington; Acushnet; Adams; Agawam; Alford; Amherst; Andover; Anita Scheipers (scheipersa@lincolntown.org); Ashland; Avon; Belchertown; Billerica; Blandford; Bolton; Boston; Bourne; Boxford; Boylston; Breaker, Jennifer; Bridgewater; Brimfield; Brookline; C. Murphy (cmurphy@winchester.us); Canton; Charlton; Chelsea; Chesterfield; Clinton; Conway; Dedham; Dennis; Dighton; Dudley; East Brookfield; East Brookfield Police Chief (ebpdchief@charterinternet.com); East Longmeadow; Edgartown; Erving; Essex; Foxborough; Hanover; Hanson; Holyoke; Huntington; J. Lee (jlee@wbridgewater.com); Janet Pantano (jpantano@georgetownma.gov); Lawrence; Lee; Leyden; Lincoln; Lowell; Marblehead; Marion; Marshfield; Mary B. Stewart (exasstselectmen@rockland-ma.gov); Mary Midura; Merrimac; Middleton; Millville; Mount Washington; Needham; New Bedford; New Salem; Newburyport; North Brookfield; Norwell; Norwood; Palmer; Pamela A. Martin (Linda.Souza@whitman-ma.gov); Paula L. Roberts (clerk@townofhardwick.com); Paxton; Peabody; Plainfield; Rick Barber (Business Fax); Rick Barber (rbarber@cityofhaverhill.com); Robert D. Whynott (lloewe@gloucester-ma.gov); Rosemary B. Harrell (selectmen@sudbury.ma.us); Rowley; Russell; Rutland; Salisbury; Sandwich; Somerset; Southborough; Springfield; Sunderland; Swampscott; Swansea; Taunton; Tolland; Townsend; Valerie Mulvey (rsb@framinghamma.gov); Walpole; Waltham; Webster; West Brookfield; West Stockbridge; West Tisbury; Wilmington; Woburn

**Subject:** OUI "Last Drink" Information

The Attorney General's Office is now e-mailing to cities and towns, on a monthly basis or as it becomes available from the Trial Court, information about the licensed establishments where defendants convicted of operating under the influence had their last drink.

[1]  
As you may know, pursuant to General Laws Chapter 90, Section 24J, before sentencing a defendant convicted of operating under the influence of alcohol, the court is required to inquire of a defendant whether before the violation, he was served alcohol at an establishment licensed to serve alcohol on the premises and the name and location of such establishment. The Trial Court provides this information to the Attorney General's Office and the Alcoholic Beverage Control Commission (ABCC). Although not required to provide this information to local licensing authorities, the Attorney General is making this information available to you in view of the public safety issue that operating under the influence presents. In some cases, the information supplied by the Trial Court is not complete; for example, the name of the city or town might not appear. The Attorney General has alphabetized the available information by city or town name but does not have additional information beyond what the Trial Court supplies.

The provision of this information to you does not constitute an accusation of criminal or negligent conduct by any establishment and is not meant to be a substitute for your own license monitoring and enforcement practices. The Attorney General has not conducted an independent review of the information, and notes that because section 24J does not require that the statement concerning the establishment be made under oath, such statement may or may not be reliable. Nevertheless, the Attorney General is making this information available to you for use in your discretion.

The provision of this information should not be considered the rendering of legal or other professional advice to you. If you have any questions regarding how this information may be used, we suggest you contact the ABCC at 617.727.3040, or [abcc\\_inquiries@tre.state.ma.us](mailto:abcc_inquiries@tre.state.ma.us).

The Attorney General has what it understands to be the e-mail addresses of the City and Town Clerks or others who are in the best position to place the last-drink information before local licensing authorities. If you want to change or add an e-mail address for your city or town, please send an e-mail to: [OUINotice@state.ma.us](mailto:OUINotice@state.ma.us).

Thank you for your cooperation.

[1]

G. L. Chapter 90, Section 24J.

*In every case of a conviction of or a plea of guilty to a violation of subdivision (1) of section twenty-four involving operating a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or under the influence of intoxicating liquor or a disposition under section twenty-four D, the court shall inquire of the defendant, before sentencing, regarding whether he was served alcohol prior to his violation of said section at an establishment licensed to serve alcohol on the premises and the name and location of said establishment.*

*Any information so acquired by the court shall be transmitted by the clerk's office to the alcohol beverage control commission, the office of the attorney general, the office of the district attorney for the district in which the establishment is located, and such*

*establishment.*





City of Northampton, Massachusetts  
License Commission  
City Hall, 210 Main Street  
Northampton, MA 01060  
(413) 587-1210 Fax: (413) 587-1264

Brad A. Shimel, Chair  
Mary L. Midura, Executive Secretary

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December 31, 2009

VAEP, LTD  
D/b/a Mulino's Trattoria and Bishop's Lounge  
41 Strong Avenue  
Northampton, MA 01060

Dear Mr. Rizos:

It has come to the attention of the Northampton License Commission office that you are offering what constitutes a "Happy Hour" or a similar offer. You are offering "Dollar Draft Night" on Monday nights.

This is not permissible by the Alcoholic Beverages Control Commission. You must cease this offer immediately with this notice. I have enclosed information explaining the applicable Massachusetts rules and regulations from the Alcoholic Beverages Control Commission.

Thank you for your cooperation in this matter!

If you have any questions or concerns, you may contact me at 413-587-1210.

Sincerely,

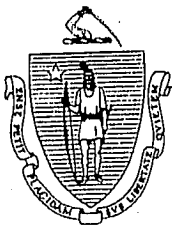
*Mary L. Midura*

Mary L. Midura  
Executive Secretary  
City Council and License Commission

Enclosures

Cc: Northampton Police Department

CERTIFIED MAIL # 7006 2760 0005 2243 1933  
RETURN RECEIPT REQUESTED  
POSTAGE PREPAID MAIL



Timothy P. Cahill  
Treasurer and Receiver General

Commonwealth of Massachusetts  
Department of the State Treasurer  
Alcoholic Beverages Control Commission  
239 Causeway Street  
Boston, MA 02114  
Telephone: (617) 727-3040  
Fax: (617) 727-1258

Kim S. Gainsboro  
Chairman

NOTICE  
TO ALL LOCAL LICENSING AUTHORITIES  
AND ALL LICENSEES UNDER M.G.L. c. 138, § 12

COMPLIANCE ISSUES DURING THIS HOLIDAY SEASON

The Alcoholic Beverages Control Commission extends our best wishes to you for the upcoming holiday season. Towards that end, the Commission would like to remind you of certain practices, which are prohibited under the Liquor Control Act (G.L. c. 138) and Commission regulations, specified in 204 C.M.R. 4.00, *et seq.*, (commonly referred to as the "Happy Hour" regulation). These prohibited practices are available on the Commission's website at [www.mass.gov/abcc](http://www.mass.gov/abcc).

The "Happy Hour" regulation prohibits any licensee or employee or agent of a licensee from engaging in or permitting any of the following activities:

1. offering or delivering any free drinks to any person or group of persons;
2. delivering more than two drinks to one person at one time;
3. selling, offering to sell or delivering to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
4. selling, offering to sell or delivering to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;
5. selling, offering to sell or delivering drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
6. selling, offering to sell or delivering malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;
7. increasing the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week and;
8. encouraging or permitting, on the licensed premises, any game or contest, which involves drinking or the awarding of drinks as, prizes.

Therefore, licensees may not legally offer an "open bar" to customers for a fixed price or offer discounted prices for drinks during a limited time period. Furthermore, no licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under 204 CMR 4.03.

In addition, licensees who intend to host private functions must be aware of Commission decisions<sup>1</sup> that issued in May 2004. These decisions list the factors that the Commission will consider in determining whether an individual §12 licensee is holding an event that will be considered a "private function" within the meaning of 204 C.M.R. §§ 4.00, *et seq.* The licensee must demonstrate that:

1. the private function has a host;
2. access to the private function is restricted to invited guests;
3. invited guests are not charged indirectly or directly;
4. the host is the only individual responsible for payment to the licensee;
5. the private function was not publicly advertised; and
6. written records containing the guest list exist and are available for inspection by the licensing authorities

Moreover, a licensee's obligation to comply with the Liquor Control Act and Commission regulations cannot be circumvented by using a third party. Licensees should understand that allowing a third party to sell tickets or use other methods of admission (where the price of admission includes any alcoholic beverages), results in the licensee transferring the privilege of its license, or transferring a direct or indirect beneficial interest in its license to a third party. This is a violation of the Liquor Control Act. A licensee must receive prior approval from both the local licensing authorities and the Commission before transferring the privilege of its license or any type of interest in it.

We hope that all of your operations, particularly those hosted within licensed premises, are structured, advertised and operated in compliance with all laws and regulations of the Commonwealth. Together, we can ensure that each license serves the public need and is operated only in such a manner so as to protect the common good. If we are successful, our holiday season is sure to be joyful and safe.

With grateful appreciation and many thanks for your attention, assistance and co-operation in these efforts, we extend our wish for a safe holiday season, and a Happy New Year.

Dated at Boston, Massachusetts this 23rd day of November 2009.

ALCOHOLIC BEVERAGES CONTROL COMMISSION



Kim S. Gainsboro  
Chairman

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<sup>1</sup> The Commission reads its regulation to include these elements of proof for an activity to be considered a Private Function." *In re: Bedford Dining, Inc. dba White Horse Tavern*, (ABCC Decision dated May 24, 2004); *In re: The Boston Leco Corporation dba Matrix*, (ABCC Decision dated May 24, 2004); *In re: Boylston Entertainment, Inc. dba The Big Easy*, (ABCC Decision dated May 24, 2004); *In re: K.M.F. Hospitality, Inc. dba Jose McIntyre's*, (ABCC Decision dated May 24, 2004).